

[DRAFT COMMITTEE PRINT]

SEPTEMBER 23, 2002

[Showing the text of H.R. 2037 as Reported by the Subcommittee on Commerce, Trade, and Consumer Protection]

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protection of Lawful
3 Commerce in Arms Act”.

4 **SEC 2. AMENDMENT TO ORGANIC ACT.**

5 The Act entitled “An Act to establish the Department
6 of Commerce and Labor”, approved February 14, 1903
7 (15 U.S.C. 1501 et seq.), is amended by redesignating sec-
8 tion 13 as section 14 and by inserting after section 12
9 the following:

10 **“SEC. 13. RESTRICTION ON COMMERCE.**

11 “(a) SECRETARY OF COMMERCE LIST.—The Sec-
12 retary of Commerce shall establish and maintain a list
13 consisting of each person that notifies the Secretary under
14 subsection (b) that such person is a licensed manufacturer
15 of a firearm or an ammunition product, a licensed seller
16 of a firearm, a licensed seller of an ammunition product,
17 or a trade association representing such manufacturers or
18 sellers. The list shall contain the name of the person, the
19 chief executive officer of the person, and the address and



1 location of the headquarters of the person. The Secretary
2 shall maintain and update the list and may publish the
3 list in the Federal Register.

4 “(b) NOTIFICATION.—Each person that—

5 “(1) is a licensed manufacturer of a firearm or
6 an ammunition product,

7 “(2) is a licensed seller of a firearm,

8 “(3) is a licensed seller of an ammunition prod-
9 uct, or

10 “(4) is a trade association representing such
11 manufacturers or sellers,

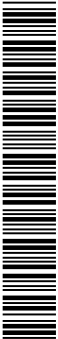
12 may notify the Secretary of that person’s existence and
13 provide to the Secretary the information described in sub-
14 section (a).

15 “(c) FREEDOM FROM RESTRICTION.—Conduct
16 that—

17 “(1) is carried out by a licensed manufacturer
18 of a firearm or an ammunition product, involves
19 such firearm or ammunition product, and is de-
20 scribed in paragraph (5) of subsection (f),

21 “(2) is carried out by a licensed seller of a fire-
22 arm, involves such firearm, and is described in para-
23 graph (7) of subsection (f),

24 “(3) is carried out by a licensed seller of an am-
25 munition product, involves such ammunition prod-

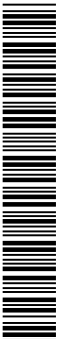


1 uct, and is described in paragraph (8) of subsection
2 (f), or

3 “(4) is carried out by a trade association in the
4 course of organizing, advising, or representing its
5 members who are manufacturers of a firearm or an
6 ammunition product, sellers of a firearm, or sellers
7 of an ammunition product, with respect to conduct
8 of such manufacturers or sellers described in para-
9 graph (5), (7), or (8) of subsection (f), as the case
10 may be,

11 and that is lawful under applicable Federal, State, or local
12 law, shall not be a basis for imposing a restriction on
13 interstate or foreign commerce on a person on the list de-
14 scribed in subsection (a) as a result of harm caused by
15 the criminal, suicidal, negligent, or other unlawful misuse
16 of any such firearm or ammunition product by any other
17 person.

18 “(d) ABSENCE FROM LIST.—The absence from the
19 list maintained under this section of any person who is
20 a manufacturer of a firearm or an ammunition product,
21 a seller of a firearm, or a seller of an ammunition product
22 shall not be construed to create any cause of action or
23 to deprive such person of any lawful defense that may oth-
24 erwise be available to such person.



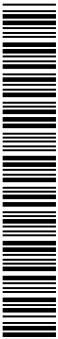
1 “(e) LIMITATION OF USE OF LIST.—No officer,
2 agency, or instrumentality of the United States may use
3 the list established and maintained under this section for
4 any purpose other than the enforcement of the provisions
5 of this section.

6 “(f) DEFINITIONS.—In this section:

7 “(1) AMMUNITION PRODUCT.—The term ‘am-
8 munition product’ means ‘ammunition’ as defined in
9 section 921(a)(17) of title 18, United States Code,
10 and includes a component part of such ammunition
11 product that has been shipped or transported in
12 interstate or foreign commerce.

13 “(2) ENGAGED IN THE BUSINESS.—The term
14 ‘engaged in the business’ has the meaning given that
15 term in section 921(a)(21) of title 18, United States
16 Code, and, as applied to a seller of an ammunition
17 product described in paragraph (8)(A)(ii), means a
18 person who devotes, time, attention, and labor to the
19 sale of ammunition products as a regular course of
20 trade or business with the principal objective of live-
21 lihood and profit through the sale or distribution of
22 the ammunition products.

23 “(3) FIREARM.—The term ‘firearm’ means
24 ‘firearm’ as defined in section 921(a)(3)(A) or (B)
25 of title 18, United States Code, and includes—



1 “(A) any ‘antique firearm’ as defined in
2 section 921(a)(16) of such title; and

3 “(B) a component part of any firearm de-
4 scribed in this paragraph that has been shipped
5 or transported in interstate or foreign com-
6 merce.

7 “(4) INTERSTATE OR FOREIGN COMMERCE.—
8 The term ‘interstate or foreign commerce’ has the
9 meaning given that term in section 921(a)(2) of title
10 18, United States Code.

11 “(5) MANUFACTURER; LICENSED MANUFAC-
12 TURER.—

13 “(A) MANUFACTURER.—The term ‘manu-
14 facturer of a firearm or an ammunition prod-
15 uct’ means a ‘manufacturer’ as defined in sec-
16 tion 921(a)(10) of title 18, United States Code,
17 who is engaged in the business of manufac-
18 turing a firearm or an ammunition product in
19 interstate or foreign commerce.

20 “(B) LICENSED MANUFACTURER.—The
21 term ‘licensed manufacturer of a firearm or an
22 ammunition product’ means any manufacturer
23 described in subparagraph (A) who is licensed
24 under chapter 44 of title 18, United States



1 Code, to be engaged in the business as such
2 manufacturer.

3 “(6) RESTRICTION ON INTERSTATE OR FOR-
4 EIGN COMMERCE.—The term ‘restriction on inter-
5 state or foreign commerce’—

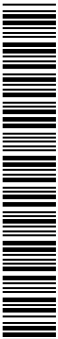
6 “(A) means—

7 “(i) civil damages or equitable relief,
8 or

9 “(ii) any other limitation or condition,
10 awarded or ordered by a Federal, State, or local
11 court, that restricts the ability of a person on
12 the list established under subsection (a) to free-
13 ly engage in interstate or foreign commerce
14 with respect to firearms or ammunition prod-
15 ucts, or of a trade association on the list estab-
16 lished under subsection (a) to freely engage in
17 lawful activities on behalf of its membership;
18 and

19 “(B) does not include any damages, equi-
20 table relief, or other limitation or condition aris-
21 ing from—

22 “(i) breach of contract or warranty in
23 connection with the purchase of a firearm
24 or an ammunition product;



1 “(ii) physical injuries or property
2 damage resulting directly from a defect in
3 design or manufacture of a firearm or an
4 ammunition product, when used as in-
5 tended; or

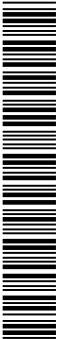
6 “(iii) the supplying of a firearm or an
7 ammunition product by a seller of a fire-
8 arm or seller of an ammunition product for
9 use by another person when the seller
10 knows or should know that the person to
11 whom the product has been supplied is
12 likely to use the product, and in fact does
13 use the product, in a manner involving un-
14 reasonable risk of physical injury to that
15 person and others.

16 “(7) SELLER OF A FIREARM; LICENSED SELL-
17 ER.—

18 “(A) SELLER.—The term ‘seller of a fire-
19 arm’ means—

20 “(i) an importer as defined in section
21 921(a)(9) of title 18, United States Code,
22 with respect to firearms, or

23 “(ii) a dealer as defined in section
24 921(a)(11) of title 18, United States Code,



1 who is engaged in the business as such importer
2 or dealer in interstate or foreign commerce.

3 “(B) LICENSED SELLER.—The term ‘li-
4 censed seller of a firearm’ means a seller of a
5 firearm who is licensed under chapter 44 of
6 title 18, United States Code, to be engaged in
7 the business as an importer or dealer described
8 in subparagraph (A).

9 “(8) SELLER OF AMMUNITION PRODUCT; LI-
10 CENSED SELLER.—

11 “(A) SELLER.—The term ‘seller of an am-
12 munition product’ means—

13 “(i) an importer as defined in section
14 921(a)(9) of title 18, United States Code,
15 with respect to ammunition products, who
16 is engaged in the business as such im-
17 porter in interstate or foreign commerce;
18 or

19 “(ii) any other person who is engaged
20 in the business of selling ammunition prod-
21 ucts, including component parts of such
22 ammunition products, in interstate or for-
23 eign commerce at the wholesale or retail
24 level, consistent with Federal, State, and
25 local law.



1 “(B) LICENSED SELLER.—The term ‘li-
2 censed seller of an ammunition product’
3 means—

4 “(i) an importer described in clause
5 (i) of subparagraph (A) who is licensed to
6 be engaged in the business as such an im-
7 porter under chapter 44 of title 18, United
8 States Code; and

9 “(ii) any other person described in
10 clause (ii) of subparagraph (A) who has
11 met all applicable requirements under Fed-
12 eral, State, or local law to be licensed to be
13 engaged in the business as a seller de-
14 scribed in that clause.

15 “(9) STATE.—The term ‘State’ includes the
16 District of Columbia, the Commonwealth of Puerto
17 Rico, and any territory of possession of the United
18 States.

19 “(10) TRADE ASSOCIATION.—The term ‘trade
20 association’ means any association or business orga-
21 nization (whether or not incorporated under the laws
22 of any State) that is not operated for profit, and 2
23 or more members of which are manufacturers of a
24 firearm or an ammunition product, sellers of a fire-
25 arm, or sellers of an ammunition product.”.

